

Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Chrystal Kornegay, Undersecretary

M.G.L. CHAPTER 40, Section 60
URBAN CENTER HOUSING TAX INCREMENT FINANCING PROGRAM
APPLICATION GUIDELINES

I. INTRODUCTION AND PURPOSE

These Application Guidelines will assist communities in preparing their Urban Center Housing Tax Increment Financing Program (UCH-TIF) application submissions to the Department of Housing and Community Development (DHCD). Adherence to these Guidelines shall also ensure that UCH-TIF applications are complete, thereby expediting their review and approval by DHCD. DHCD's Office of Sustainable Communities is responsible for the operation and administration of the UCH-TIF Program. This includes review and approval of all UCH-TIF applications. Please note that all references to **sections** in the headings below are to UCH-TIF's Regulations at 760 CMR 58.00.

The UCH-TIF Program established under M. G. L. Chapter 40, section 60, as amended by St. 2010 chapter 240 section 77, encourages residential development as a catalyst for commercial center revitalization. The UCH-TIF Program authorizes municipalities to provide a real estate tax exemption on all or part of the increased value (the "Increment") of improved real property. Consistent with this goal, the area that benefits from the TIF shall be primarily a commercial district, new development shall be primarily residential, and such housing shall be appropriate to a commercial center, e.g., multi-unit. Single family housing is prohibited. New development may consist of new construction, reconstruction, rehabilitation or renovation. Tax increment financing may be combined with local, state and federal grants and loans in order to make a project feasible.

The UCH-TIF Program requires that 25% of new housing be affordable, although DHCD may approve a lesser percentage where necessary for the financial feasibility of a housing development. All units produced shall be marketed in a fair and open process consistent with state and federal fair housing laws. Affordable housing created under this program shall count towards a municipality's goal of 10% low or moderate income housing on DHCD's Subsidized Housing Inventory so long as the housing meets the requirements set out in the [Comprehensive Permit Guidelines](#) available on DHCD's Website (including the requirement that a minimum of 25% of the units in a given project must be affordable).

Participation in the UCH-TIF Program requires that a municipality adopt a detailed Urban Center Housing Tax Increment Financing Plan ("UCH-TIF Plan") for a designated commercial area (the "UCH-TIF Zone"). The Plan must demonstrate the need for multi-unit housing in the Zone and contain detailed development plans for the Zone, including negotiated/executed agreements with property Owners undertaking new development who will be receiving tax increment exemptions ("UCH-TIF Agreements")

on these projects. DHCD must approve each Zone, Plan, and Agreement in order to ensure compliance with statutory and program requirements.

Communities are strongly encouraged to:

- **Contact DHCD to schedule a project meeting at the beginning of the UCH-TIF planning process.**
- **Submit copies of draft(s) of the UCH-TIF Application (Zone, Plan and Agreement/s) to DHCD for its review and comment before formal application submission. DHCD's review of and comments on drafts will assist communities to prepare their final applications, thereby expediting submission of complete applications.**

DHCD is committed to working with communities to ensure that the final application submission meets all statutory and regulatory requirements and all project funding and financing deadlines.

II. LOCAL APPROVAL PROCESS - Section 58.04

Before submitting an application for approval of an UCH-TIF Zone and an UCH-TIF Plan to DHCD, a municipality shall implement a local review and approval process. The steps of this process shall conform to the regulatory requirements specified under 760 CMR 58.04. These steps are described below. Documentation that the municipality has complied with the local approval process shall be submitted as part of the UCH-TIF Application.

If the Zone includes areas in more than one municipality, then the "Local Approval Process" pursuant to 760 CMR 58.04 shall be implemented in each of the participating communities. All requisite documentation, including authorizing signatures and identification of the municipal boards, agencies or authorized officers designated to execute UCH-TIF Agreements shall be submitted.

A. Designation of UCH-TIF Zone and Preparation of UCH-TIF Plan

The Chief Executive of a municipality or other authorized officer or entity shall designate a qualifying commercial center as a proposed UCH-TIF Zone and prepare a proposed UCH-TIF Plan meeting the UCH-TIF Zone requirements of 760 CMR 58.05. UCH-TIF Agreements with individual property Owners need not be attached to the Plan at this stage of the local process.

B. Public Hearing

The Chief Executive, other authorized officer or entity, or the designee of such officer or entity shall hold a public hearing to receive public comment on the proposed Zone and Plan. Notice of the hearing shall be published in a newspaper of general circulation in the city or town in each of two successive weeks, with the last publication being at least three days prior to the hearing. A joint public hearing may be conducted provided that the public hearing notice is published in local papers and posted in locations serving all participating communities and the hearing is held in a location accessible to all participating communities.

C. Approval by the Municipal Legislative Body

Following the public hearing, the legislative body of the municipality (i.e., the town meeting, town council, city council or board of aldermen) may make amendments and approve the Zone and Plan, as amended, by majority vote. The approval shall include:

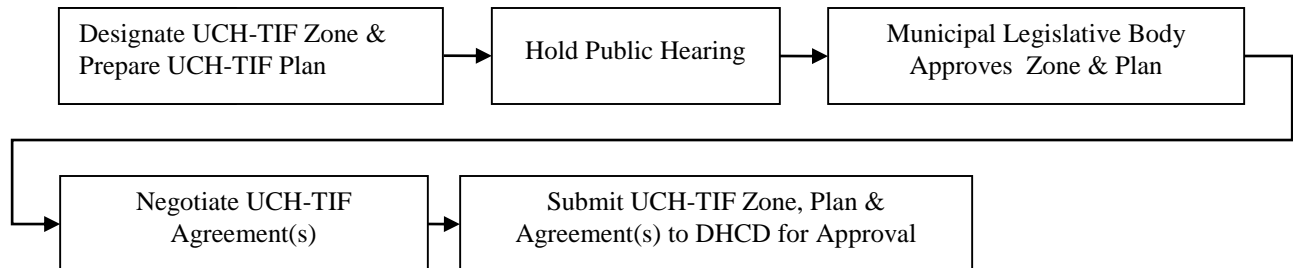
1. The authority to implement Tax Increment Exemptions from property taxes for a period not to exceed twenty (20) years, and
2. The maximum percentage of the costs of any public project that can be recovered through Special Assessments on properties receiving tax increment exemptions.

D. Negotiation of UCH-TIF Agreements

Following approval of the proposed Zone and Plan by the legislative body, UCH-TIF Agreements may be negotiated with individual property Owners identified in the proposed UCH-TIF Plan, and these agreements are then incorporated into the Plan. The agreements may be executed by a municipal designee or any other officer or entity as specified in the Plan. The Agreements shall provide that they are subject to the approval of DHCD in order to become effective.

E. Application Submission to DHCD

The Chief Executive of the municipality is responsible for submitting the UCH-TIF Application to DHCD. An Application consists of the locally approved UCH-TIF Zone, UCH-TIF Plan, and UCH-TIF Agreement(s). All three components must be submitted together. At least one UCH-TIF Agreement must be included in the application submission.



III. THE UCH-TIF APPLICATION

The UCH-TIF Application submission to DHCD shall be formatted to correspond to the regulatory requirements of 760 CMR 58.04, “Local approval Process;” 760 CMR 58.05, “The UCH-TIF Zone;” 760 CMR 58.06, “The UCH-TIF Plan;” and 760 CMR 58.07, “The UCH-TIF Agreement.” Submission of the UCH-TIF Application in this format ensures compliance with the regulations, will result in a complete application, and will expedite DHCD review and approval.

A. Cover Sheet

Attach a Cover Sheet with the following information:

- The UCH-TIF Plan name;
- The UCH-TIF Zone designation;

- The name of the applicant municipality (or municipalities);
- The name, address, telephone number, e-mail address, and fax number of the municipal board, agency or authorized officer designated to execute UCH-TIF Agreements;
- The name, address, telephone number, e-mail address, and fax number of the contact person for the UCH-TIF project/application;
- The addresses of individual properties with UCH-TIF Agreements that are included with the application;
- Authorization by the municipality's Chief Executive or other authorized officer or entity that:
 - An area qualifying as a Commercial Center has been designated the UCH-TIF Zone; and
 - The proposed UCH-TIF Plan meets the requirements of 760 CMR 58.00.

B. Table of Contents and Page Numbering

The UCH-TIF Application submission must include a Table of Contents. The application should include tabs separating each section of the application and all pages should be numbered sequentially, including any appendices and/or attachments.

C. Evidence of Public Hearing – Section 58.04(2)

Submit documentation that a public hearing was held, including:

- A copy of the published hearing notice
- Minutes of the hearing and attendance sheet(s)

D. Approval by Municipal Legislative Body – Section 58.04(3)

Submit documentation of municipal approval (town meeting, town council, city council or board of aldermen) of both the proposed UCH-TIF Zone and UCH-TIF Plan by majority vote, including:

- Certified copy of the vote
- Authorization to implement tax increment financing
- Maximum percentage of costs of any public project that can be recovered through special assessments

E. UCH-TIF Zone -- Section 58.05

The UCH-TIF Application submission shall include the proposed UCH-TIF Zone, proposed UCH-TIF Plan, and UCH-TIF Agreement(s). The UCH-TIF Zone and UCH-TIF Plan may be submitted together but as separate documents or the UCH-TIF Zone may be submitted as a component of the UCH-TIF Plan. The application shall include a written designation of the proposed UCH-TIF Zone with sufficient documentation to qualify the UCH-TIF Zone as a Commercial Center.

All four of the following criteria shall be established to qualify the designated UCH-TIF Zone as a Commercial Center as defined in Section 58.03. Documentation may include written descriptions/narratives, demographic and statistical data, market analyses, parking and traffic studies, affordable housing studies, photographs (digital format preferred), news articles, reports/publications of business and civic organizations, and any other information that will address the following criteria. Other relevant documentation may be included in an appendix, as appropriate:

1. The area is used primarily for commerce or business, including, but not limited to, sales of or provision of goods or services, including medical and educational services and services provided by profit and nonprofit entities (e.g., zoning map, land use map, map of parcels assessed as residential vs. parcels assessed as commercial/industrial).
2. The area has a high population during the daytime or during regular business hours, when compared with its nonbusiness hours or with the daytime population of surrounding developed areas of similar size (e.g., population count, customer count).
3. Daytime automobile traffic and parking in the area are higher, when compared to automobile traffic and parking during nonbusiness hours or when compared to the daytime automobile traffic and parking in surrounding developed areas of similar size (e.g., traffic and/or parking counts).
4. There is a need for multi-unit residential properties in the area (e.g., housing study).

If the UCH-TIF Zone includes areas in more than one municipality, then these areas must be contiguous, and the documentation must demonstrate that the UCH-TIF Zone area -- across municipal boundaries -- is a Commercial Center. The municipal boundaries must be clearly delineated.

F. UCH-TIF Plan -- Section 58.06

The UCH-TIF Plan shall focus on residential and mixed use development as a means of achieving the objectives of UCH-TIF Program, meet the standards and requirements of section 60(a) of M.G.L. chapter 40, and include the following information/documentation:

1. Executive Summary

The UCH-TIF Plan submission must include an Executive Summary or overview, including:

- A description of the UCH-TIF Zone;
- An explanation of the need for residential development in the proposed UCH-TIF Zone, including affordable housing;
- An explanation of the need for commercial growth/development in the proposed UCH-TIF Zone;
- A summary of the anticipated construction, reconstruction, rehabilitation, renovation and related activities, both public and private, planned for the UCH-TIF Zone and the anticipated costs and timelines associated with these activities;
- A summary of the types, amounts and locations of the proposed affordable housing; and
- Identification of the addresses of individual properties with UCH-TIF Agreements.

Submission of the Executive Summary will expedite DHCD's application review.

2. Objectives of the UCH-TIF Plan – Section 58.06(1)

The UCH-TIF Plan submission shall describe how implementation of the UCH-TIF Plan will meet the integrated purpose of the statute to “encourage increased residential growth, affordable housing and commercial growth” in the locally designated UCH-TIF Zone. Applicants are encouraged to include

separate objectives for residential growth, affordable housing and commercial growth, as appropriate, and to identify milestones with associated timelines.

Objectives should be measurable and may include: create affordable housing, reuse mill buildings, increase pedestrian activity, generate new tax revenue, encourage new business development and job creation, decrease downtown vacancy rate, promote upper story development, and rehabilitate historic structures. Please cite specific objectives to the greatest extent possible.

3. Parcel Description, Coverage and Zoning in the UCH-TIF Zone – Section 58.06(2)

UCH-TIF Zone is in one municipality: Submit to-scale legible maps of the UCH-TIF Zone and written, support documentation, as appropriate, for the following:

- Boundaries of the UCH-TIF Zone and its location within the municipality;
- All existing streets, thoroughfares, and public rights of way;
- All current zoning;
- All individual parcels and identification of all individual parcels that will negotiate UCH-TIF Agreements;
- Ownership of all parcels, and their current uses;
- A detailed description of all existing improvements and buildings and their conditions; and
- A detailed description of the UCH-TIF Zone's infrastructure, including its capacity and condition.

UCH-TIF Zone is in two or more municipalities: (1) Applications with proposed UCH-TIF Zones covering areas in two or more municipalities should include identical written designations of the proposed UCH-TIF Zone and maps of the Zone, which clearly delineate:

- Boundaries of the entire UCH-TIF Zone and its location within the municipalities;
- All existing streets, thoroughfares, and public rights of way; and
- All current zoning.

(2) In addition, applications should include the following separate descriptions of each participating municipality's respective portion of the proposed UCH-TIF Zone:

- All individual parcels in the UCH-TIF Zone and identification of all individual parcels that will negotiate UCH-TIF Agreements;
- Ownership of all parcels and their current uses;
- A detailed description of all existing improvements and buildings and their conditions; and
- A detailed description of existing infrastructure, including its capacity and condition.

(3) All additional application information, including designations, approvals and UCH-TIF Agreements, should be submitted separately by each municipality. Please note, however, that the municipalities may hold separate public hearings or one joint public hearing. If a joint public hearing is conducted, appropriate notice must be provided in all participating municipalities, and the hearing must be conducted at a site accessible to residents of all participating communities.

4. Specification of Development and Useful Life of Housing – Section 58.06(3)

- Submit detailed descriptions and concept plans for all construction, reconstruction, rehabilitation, renovation and any related activities (including landscaping), for both public and private development planned for individual parcels and other areas in the UCH-TIF Zone.
- Submit specifications of the useful life of any proposed affordable housing in the UCH-TIF Zone and the method used to determine the useful life.

5. Compliance with Zoning – Section 58.06(4)

- Submit information on existing zoning.
- Submit a statement describing any proposed projects that will be in noncompliance with any applicable zoning or ordinances and/or any other applicable laws, bylaws, ordinances, rules and regulations.
- Submit a description of how any noncompliance will be addressed, including proposed new zoning.

6. Schedule and Cost of Public Construction in the UCH-TIF Zone – Section 58.06(5)

Submit all of the following information/documentation:

- All existing concept plans for planned public construction in the UCH-TIF Zone;
- A detailed budget – identifying all sources of funding, their specific amounts, and their projected uses – for all proposed public construction;
- A timetable for public construction;
- A schedule specifying the amounts of and dates for any special assessments to be assessed against individual property Owners to pay for this construction; and
- Specification of a maximum percentage of the costs of the public construction recoverable through special assessments.

7. Affordable Housing – Section 58.06(6)

- Specify the types and amounts of affordable housing proposed for individual parcels.
- Submit documentation that at least 25% of all housing units in developments that will receive/have received tax increment exemptions are affordable.
- For developments that are less than 25% affordable, the application shall include documentation that the project is not financially feasible without the lower percentage.

To determine the maximum permissible monthly rents for the proposed affordable units, refer to the current *U.S. Department of HUD Fair Market Rents* for the municipality. Please note that these figures represent per unit gross rents and include utility costs for heat, hot water, cooking fuel, electricity and tenant owned ranges and refrigerators. Municipalities may also include trash collection as a utility cost, if tenants are billed for this service. If any utility costs are paid by tenants, an adjustment for each utility must be made to the proposed affordable rents. The housing authority in the municipality in which the UCH-TIF project is located can provide you with both the HUD Fair Market Rents and the utility allowances for that community. The utility allowance schedule provides the dollar amount for each utility that must be subtracted from the gross rent.

For example, the maximum permissible monthly rent for an affordable two bedroom unit in a multi-unit residential property in Haverhill, as of January 1, 2006, inclusive of all utilities, is \$1042.00. If the tenant is paying for gas heat, gas hot water, electricity and gas for cooking, these allowances must be subtracted from the gross rent to determine the net rent allowed for that unit:

Gas Heat	\$111.00
Gas Hot Water	20.00
Electricity	44.00
Cooking Gas	16.00
Total Utility Allowance	\$191.00

Maximum Permissible Rent for this unit: \$1042.00 - \$191.00 = \$851.00. This net figure should be used in determining net operating income for the project.

Please note: All UCH-TIF Agreements submitted to DHCD for approval must include a completed copy of the OneStop Low Income Housing Tax Credit Application, Sections 1-4. The OneStop Application shall be completed by the property Owner/developer. The OneStop Application submission will provide both the municipality and DHCD with the information needed to justify the percentage of affordable housing units proposed, as well as document the financial feasibility of the housing project receiving the tax increment exemption. The OneStop Low Income Housing Tax Credit Application and instructions for its use can be found at <http://www.mhic.com/index2.cfm?LIMarginLft=25>.

If the property Owner/developer of a planned UCH-TIF project requests a percentage of affordable housing units that is less than 25 %, the applying municipality must provide verifiable data that the project is only feasible with the lower percentage. To comply with this requirement:

- Apply in writing for a waiver (Section 58.18) of the requirement that 25% of the housing units be affordable;
- Submit one completed copy of the OneStop Low Income Housing Tax Credit Application, Sections 1-4, calculated with the requested percentage of affordable housing units that is less than 25 % (e.g., 20 %);
- Submit a second OneStop Application calculated with 25% of the units affordable.

8. UCH-TIF Agreements – Section 58.06(7)

The UCH-TIF Plan shall include copies of all UCH-TIF Agreements; a minimum of at least one agreement must be negotiated at the time of application submission. The UCH-TIF Agreement(s) submitted with the application must be sufficient to ensure that the municipality can make meaningful progress in implementing its Plan with respect to the number of properties within the Zone that are subject to an Agreement and with respect to the requirements imposed upon the Owners subject to such Agreements

DHCD shall review all negotiated UCH-TIF Agreements. In order to expedite approval of the UCH-TIF Agreements:

- Please submit a copy of the negotiated UCH-TIF Agreement(s) before execution by the appropriate parties. The Agreement(s) may be submitted with or in advance of the final UCH-TIF Application (i.e., with a copy of the draft application/UCH-TIF Zone and UCH-TIF Plan).
- DHCD's legal counsel shall review the Agreement(s) and request revisions, as appropriate.

- The UCH-TIF Application shall not be approved by DHCD until a copy of the revised and executed UCH-TIF Agreement(s) has been submitted.

It is recommended that, to the extent possible, UCH-TIF Agreements shall be written to include all applicable affordable housing restrictions from other programs/different funding sources – i.e., develop an UCH-TIF Agreement that creates one umbrella agreement covering all applicable affordability restrictions rather than developing separate agreements for use by each program.

Attach a completed copy of the OneStop Low Income Housing Tax Credit Application, Sections 1-4, to each UCH-TIF Agreement.

9. Municipal Signatory Power – Section 58.06(8)

Submit the name and title of the municipal designee authorized to execute UCH-TIF Agreements. Please note that such power may be made subject to the approval of the municipality's Chief Executive.

10. Other Material – 58.06(9)

DHCD reserves the right to request additional information from municipalities to supplement their applications and/or in order to facilitate its review of application submissions.

Two UCH-TIF applications must be submitted. One of which must be submitted in hard copy with original signature(s) to:

Attn: Carol Wolfe, Community Revitalization Coordinator
UCH-TIF Program
Department of Housing & Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114.

The other must be submitted electronically to: Carol.Wolfe@state.ma.us.

Please contact Carol Wolfe, Community Revitalization Coordinator, at (617) 573-1450, or at Carol.Wolfe@state.ma.us if you have any questions or need assistance.

IV. THE UCH-TIF AGREEMENT -- Section 58.07

The UCH-TIF Application submission must include copies of all UCH-TIF Agreements. Each UCH-TIF Agreement is a binding legal agreement requiring an Owner of a parcel of real property in an UCH-TIF Zone to undertake development of the parcel, including the provision of affordable housing according to the locally approved UCH-TIF Plan, and to maintain the parcel(s) as developed in good, decent, safe and sanitary condition, in partial consideration of an UCH-TIF exemption. The UCH-TIF Agreement shall not become effective until it has been (a) executed by the Owner and the municipality; (b) approved by DHCD; and (c) the notice of DHCD's approval is recorded with the appropriate registry of deeds or land court registry. UCH-TIF Agreements shall specify that: **Properties receiving tax increment exemptions shall be primarily residential.**

UCH-TIF Agreements shall include **all** of the following:

A. Description of the Improvements by Owner – Section 58.07(1)

- Location of the project;
- Specification of the construction, reconstruction, rehabilitation, renovation and related activity, which shall be primarily residential, to be undertaken by the property Owner;
- A development timetable; and
- A detailed sources and uses budget.

B. Description of Municipal Improvements and Special Assessments – Section 58.07(2)

- Specification of the public construction to be undertaken by the municipality (e.g., location, linear feet, materials, purpose);
- A timetable;
- A detailed sources and uses budget;
- Specification of any special assessments to be levied on the property Owner to pay the costs of public construction;
- Specification of the maximum percentage of the costs of public construction that can be levied on the property Owner through such Special Assessments. (Deleted by DG, but statutory language)

Please note that special assessments are prohibited if they are not specified in the UCH-TIF Agreement. Public construction that could not reasonably be anticipated at the time of UCH-TIF Plan approval is not subject to this prohibition.

C. Tax Increment Financing – Section 58.07(3)

- The tax increment financing, including the term, the applicable Exemption Percentage for each fiscal year, the Base Valuation and any agreement as to the initial valuation of the Increment for each fiscal year.

D. Affordable Housing – Section 58.07(4)

The Affordable Housing Restriction incorporated as part of each UCH-TIF Agreement shall be the uniform restriction approved by DHCD, which is available on the UCH-TIF webpage and which requires, among other matters, that:

- 25% of the housing assisted by the exemption is affordable. A lower % may be approved if the applying municipality submits a request in writing for a waiver of the 25% affordability requirement along with the required supporting documentation;
- The affordable housing is occupied during the term of the restriction(s) by income-eligible households selected fairly.
- Marketing and resident selection for the Affordable Housing shall comply with the Department's Affirmative Fair Housing and Civil Rights Policy.
- Implementation of the restrictions shall be monitored by an agent or employee of the municipality;
- There shall be enforcement of the restrictions in the event of any material noncompliance.

E. Material Representations and Commitments – 58.07(5)

- Submit all material representations and any other commitments made by either the property Owner or the municipality and relied on by the other in entering the UCH-TIF Agreement.

F. Other Requirements – 58.07(6)

- DHCD reserves the right to request additional information.

V. AFFORDABLE HOUSING RESTRICTION – Section 58.08

The Affordable Housing Restriction shall comply with the provisions of M.G.L. chapter 40, section 60 and 760 CMR 58.08, including:

A. Municipal, State or Federal Monitoring – 58.08(1)

B. Resident Selection – 58.08(2)

C. Department's Option to Purchase – 58.08(3)

D. Department's Right of First Refusal – 58.08(4)

E. Priority of the Restriction – 58.08(5)

F. Household Income – 58.08(6)

G. Noncompliance – 58.08(7)

H. Increase of Household Income – 58.08(8)

I. Department's Option to Purchase – Section 58.09

- DHCD or its assignee shall have an option to purchase the property that is subject to an Affordable Housing Restriction at its fair market value upon the expiration of the affordable housing restriction.

J. Department's Right of First Refusal – Section 58.10

- DHCD or its assignee shall have the right of first refusal if the Owner of property that is subject to an Affordable Housing Restriction seeks to sell, transfer or otherwise dispose of the property during the term of the Affordable Housing Restriction.

K. Assignment of Option, Right of First Refusal – Section 58.11

- The Department may select a developer to act on its behalf with respect to the Option or the Right of First Refusal. The Department shall select an assignee in the manner provided by its Guidelines. The Department shall enter into a written agreement with its selected assignee and

upon execution of such agreement, the assignee shall assume all rights and responsibilities attributable to the Department under the Option.

Please note that the UCH-TIF Agreement and Affordable Housing Restriction documents shall be reviewed by DHCD to insure that all the requirements of 760 CMR 58.07, “The UCH-TIF Agreement,” 58.08, “Affordable Housing Restrictions,” 58.09, “Department’s Option to Purchase,” 58.10, “Department’s Right of First Refusal,” and 58.11, “Assignment of Option, Right of First Refusal” are met.

VI. UCH-TIF APPLICATION REVIEW AND APPROVAL PROCESS – Section 58.12

A. Processing Applications

DHCD shall review each UCH-TIF Application – the UCH-TIF Zone, UCH-TIF Plan, and UCH-TIF Agreement(s). DHCD may request assistance from the Department of Revenue and the Massachusetts Office of Business Development in its review and/or may also solicit reports or information from consultants or other third parties, if necessary. DHCD may also request additional information/clarification from the municipality if DHCD determines that the application submission is incomplete. If DHCD determines that the additional information does not result in any material changes to the application, the additional information shall become part of the application without further action by the municipality’s legislative body. DHCD shall give a notice of approval or notice of denial to the municipality within 60 days of receipt of a complete application. DHCD may also give a notice of conditional approval, which is an approval subject to the satisfaction of certain specified conditions.

B. Findings

In order to approve an UCH-TIF Application DHCD shall make the following findings:

1. UCH-TIF Zone – 58.12 (2)

- The area comprising the proposed UCH-TIF Zone meets the statutory and regulatory requirements for an UCH-TIF Zone.

2. UCH-TIF Plan – 58.12 (3)

- The UCH-TIF Plan is complete and meets the statutory and regulatory requirements for an UCH-TIF Plan;
- The UCH-TIF Plan employs sound planning principles;
- The financial assumptions and projections for the various private projects appear sound, and there are sufficient UCH-TIF Agreements executed so as to create a likelihood that the proposed projects shall be completed and substantial compliance with the UCH-TIF Plan achieved;
- The financial assumptions and projections for public construction appear sound, and there is a likelihood that the public projects shall be timely completed; and
- Implementation of the UCH-TIF Plan will encourage increased residential growth, affordable housing and/or commercial growth in the designated UCH-TIF Zone.

3. UCH-TIF Agreements – 58.12 (4)

- The Agreement is in proper form;
- The Agreement is consistent with the Zone and Plan;
- Adequate provision is made for a qualifying, primarily residential development in accordance with the UCH-TIF Plan; and
- The UCH-TIF Exemption for this development is warranted under the standards set out in 760 CMR 58.12 (6) (b) in view of the representations and commitments set out in the Agreement.

4. Conditional Approval of UCH-TIF Zone and UCH-TIF Plan – 58.12 (5)

- A municipality may request that the Department conditionally approve a Zone and Plan subject to the submission of UCH-TIF Agreements. Such approval shall be subject to the standards and requirements set forth at 760 CMR 58.12 (1) – (3). Upon submission of Agreements that meet the standards of 760 CMR 58.06 (7) and 58.12 12 (4), DHCD shall approve the Zone, Plan and Agreements.

C. Time and Effect of Approval – 58.04 (6)

DHCD's approval of the UCH-TIF Zone, the UCH-TIF Plan and the UCH-TIF Agreement(s) shall become effective as of the date that DHCD's notice of approval is recorded with the appropriate registry of deeds or land court registry. The UCH-TIF Zone, UCH-TIF Plan and UCH-TIF Agreement(s), once effective, are final and cannot be amended without prior written approval by DHCD as provided in 760 CMR 58.15. All notices of approvals of major amendments shall be effective upon recording of the notice with the appropriate registry of deeds or land court registry. Recording will be undertaken by and at the expense of the municipality or the Owner.

D. Disapproval and Resubmission – 58.04 (7)

DHCD shall notify the municipality if some material part(s) of the UCH-TIF Plan, UCH-TIF Zone and/or UCH-TIF Agreement(s), are denied. Subsequently, the legislative body of the municipality must make amendments to the UCH-TIF Plan or UCH-TIF Zone by majority vote in order to address any issue(s) raised by DHCD in its denial. The parties may also make amendments to the UCH-TIF Agreements, if necessary. The UCH-TIF Plan, UCH-TIF Zone and/or Agreement(s), as amended, may then be resubmitted for DHCD's approval. If approved by DHCD, the amended UCH-TIF Plan, UCH-TIF Zone and Agreement(s) shall become effective and final upon the recording of DHCD's notice of approval and cannot be amended without prior written approval by both the municipality and DHCD, as provided in 760 CMR 58.15 (1)-(3).

E. New UCH-TIF Agreements – 58.04 (8)

If the municipality negotiates new UCH-TIF Agreements, each new UCH-TIF Agreement shall be submitted to DHCD for approval as provided in 760 CMR 58.15 (5). Upon the recording of DHCD's notice of approval, the Agreement shall become effective and final and cannot be amended without prior written approval by both the municipality and DHCD as provided in 760 CMR 58.15. New UCH-TIF Agreements shall be in compliance with the UCH-TIF Plan. Consequently, the UCH-TIF Plan may need to be amended over time to include properties not originally identified in the UCH-TIF Plan as future tax-increment exempt properties.

VII. AMENDMENTS -- Section 58.15

A. Amendments to the UCH-TIF Zone or UCH-TIF Plan – Section 58.15 (1)

A municipality may change a previously approved UCH-TIF Zone or UCH-TIF Plan by submitting an application for amendment of the UCH-TIF Zone and/or UCH-TIF Plan -- signed by the Chief Executive of the municipality or other authorized officer or entity -- to DHCD for approval. DHCD shall determine whether the proposed amendment is minor or major. The application for amendment shall include:

- A detailed description of the proposed amendment;
- The reason(s) why the amendment is needed;
- The effect the proposed amendment will have on projects/activities described in the UCH-TIF Plan;
- A presentation of whether the amendment is “minor” or “major;”
- A copy of pertinent revisions to the UCH-TIF Zone or UCH-TIF Plan as originally approved by DHCD.

B. Minor Amendments – Section 58.15 (2)

A minor amendment is a change that does not significantly alter any of the basic or material elements of the UCH-TIF Zone or UCH-TIF Plan. DHCD shall have 60 days to approve an application submission for a minor amendment if DHCD determines that it is reasonable as presented in the application submission. DHCD may require additional information to complete its review and the time for acting on the amendment shall be suspended until DHCD shall have received the additional information. If during its review, DHCD determines that the amendment is a major amendment that has been misclassified as a minor amendment, DHCD shall return the application for minor amendment to the municipality for a public hearing and approval by the legislative body of the municipality.

C. Major Amendments – Section 58.15 (3)

A major amendment is a change that significantly alters any of the material elements of an UCH-TIF Zone or the UCH-TIF Plan. Prior to submission of an application for a major amendment to DHCD, the municipality shall hold a public hearing, and the legislative body of the municipality shall approve the amendment in the manner provided by 760 CMR 58.04. DHCD shall review the application submission and take appropriate actions within 60 days following receipt of a complete application for a major amendment subject to the standards set out in 760 CMR 58.11(a), (b) and (c).

D. Amended Agreements – Section 58.15 (4)

If a municipality and an Owner decide to change a UCH-TIF Agreement, an amended agreement between the municipality and the Owner shall be submitted to DHCD for approval. The amendment submission shall include a separate written specification of each change, the reason for each change, and meet the requirements specified in 756 CMR 58.07. DHCD shall review the amended agreement and make its findings within 60 days of receipt of a complete submission as required by 760 CMR 58.11(d).

E. New Agreements – Section 58.15 (5)

If a municipality and an Owner decide to enter into a new UCH-TIF Agreement with respect to a parcel not subject to an existing UCH-TIF Agreement, an UCH-TIF agreement between the municipality and the Owner shall be submitted to DHCD for approval. The UCH-TIF Agreement must meet all the requirements specified in 760 CMR 58.07. Prior to approval, DHCD shall make the findings required by 760 CMR 58.11(d) within 60 days of receipt of the complete UCH-TIF Agreement. UCH-TIF Agreements for parcels not previously identified in the approved UCH-TIF Plan shall require an amendment to the UCH-TIF Plan to include the parcel as an identified tax increment exemption property.

VIII. DETERMINATION OF THE UCH-TIF EXEMPTION – Section 58.13

A municipality may grant an UCH-TIF Exemption to an Owner for a period not to exceed twenty (20) years. The Term of the Exemption shall be specified in the UCH-TIF Agreement and may vary from 100% to 1% -- i.e., the percentage of the tax on the Increment that is exempted in each year of the Term. The Term need not be the same for all Owners.

Please refer to 760 CMR 58.03, “Definitions,” for the following terms:

- Base Value
- Increment

The Exemption amount and the total tax owed after the exemption for any one year of the Term are calculated as follows:

- 1. Increment = Total Assessed Value of Property – Adjusted Base Value of Property**
- 2. Tax on Increment = Increment x Tax Rate x (100% - Exemption %)**
- 3. Exemption = Increment x Tax Rate – Increment x Tax Rate x (100% - Exemption %)**
- 4. Total Tax Owed = Tax on Adjusted Base Value + Tax on Increment**

Example:

Anytown, MA executed an UCH-TIF Agreement with Pleasant Gardens, LLC for a mixed-use project (housing and commercial with 25% of the housing units affordable) in a commercial center, granting a 10-year Exemption. The Exemption Schedule and Percentages were negotiated as follows:

FY2010	100%	FY2011	75%
FY2011	95%	FY2012	70%
FY2012	90%	FY2013	65%
FY2013	85%	FY2014	60%
FY2014	80%	FY2015	55%

Pleasant Gardens LLC has finished construction, and this is the second year of the Exemption Schedule. The Exemption is 95%.

Adjusted Base Value of Property	\$1,000,000
Value of Increment	2,000,000
Total Assessed Value	3,000,000
Annual Tax Rate	1.4%

1. Increment = \$3,000,000 - \$1,000,000 = \$2,000,000

2. Tax on Increment = \$2,000,000 x 0.014 x (1.00 – 0.95) = \$1,400

3. Exemption = \$2,000,000 x 0.014 - \$2,000,000 x (1.00 – 0.95) = \$26,600

4. Total Tax Owed = (\$1,000,000 x 0.014) + \$1,400 = \$15,400

As this example illustrates, tax savings for an Owner of real property granted an UCH-TIF Exemption can be substantial. Without the Exemption, Pleasant Gardens, LLC's tax for FY2011 would have been \$42,000.

Total Tax without UCH-TIF Agreement = \$3,000,000 x 0.014 = \$42,000

Thanks to its UCH-TIF Agreement with Anytown, MA Pleasant Gardens LLC saved \$26,600 in FY2011 property taxes, the amount of the Exemption for FY2011.

IX. SPECIAL ASSESSMENTS – Section 58.14

Special Assessments may be imposed on Owners of real property for public construction in an UCH-TIF Zone, if it is described in an UCH-TIF Plan and if it is imposed in accordance with the provisions of the UCH-TIF Agreement. Owners of real property who have not executed UCH-TIF Agreements shall not be levied special assessments for the public construction specified in the UCH-TIF Plan. In the event that public construction, which was unforeseen at the time the UCH-TIF Plan was approved becomes necessary, and the cost of such construction is recoverable through a special assessment pursuant to M.G.L. chapter 80 § 1; such a special assessment may be levied in the manner provided in M.G.L. chapter 80.

X. TIME PERIODS, NOTICE – Section 58.19

A. Time Periods – 58.19 (1)

Unless expressly stated otherwise, all time periods set forth in section 60 of M.G.L. chapter 40 or 760 CMR 58.00 shall be calculated in calendar days, except as otherwise set forth herein. A time period shall not expire until the first day in which state offices are open.

B. Notice – 58.19 (2)

Unless expressly stated otherwise, any notice required by section 60 of M.G.L. chapter 40 or 760 CMR 58.00 shall be deemed to have been provided when delivered in person or mailed by certified or registered mail, return receipt requested, to the party to whom notice is required. The envelope of any notice provided to the Department shall state, in 12-point all caps letters, “ATTENTION: UCH-TIF NOTICE.”

XI. WAIVERS – Section 58.20

The Undersecretary of DHCD may waive, in writing, any provision of 760 CMR 58.00 not required by statute on findings that the waiver is consistent with the purposes set out in the statute and the regulations and that desirable relief in the public interest will be accomplished through such waiver. A request for a waiver must be in writing to the Undersecretary, Department of Housing and Community Development, 100 Cambridge Street, Suite 300, Boston, MA 02114, Attn.: Carol Wolfe, Community Revitalization Coordinator. It shall contain documentation that the waiver meets all the requirements of this subsection. Prior to making a determination relative to a requested waiver, DHCD may request such further information as it may find necessary or useful from any party. In making its determination, the Department shall consider any written comments that it receives within ten (10) days of receipt of the waiver request or before the determination is made, whichever is longer.